

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

IBEW LOCAL UNION NO. 102, et al.

Plaintiffs,

v.

NEW WHITE ELECTRIC, INC.,

Defendant.

Civil Action No. 18-17127

ORDER

THIS MATTER comes before the Court by way of Plaintiffs IBEW Local Union No. 102's, IBEW Local 102 Welfare, Pension, Annuity and Joint Apprenticeship Training Funds,' and IBEW Local No. 102's ("Plaintiffs") Motion for Default Judgment, ECF No. 8, and Defendant New White Electric Inc.'s ("Defendant") Motion to Vacate Entry of Default, ECF No. 10;¹ and it appearing that Defendant's Motion is unopposed; and it appearing that "the [C]ourt may set aside an entry of default for good cause," Fed. R. Civ. P. 55(c);

and it appearing that in exercising its discretion to set aside default, the Court must consider "(1) whether the plaintiff will be prejudiced; (2) whether the defendant has a meritorious defense; [and] (3) whether the default was the result of the defendant's culpable conduct," United States v. \$55,518.05 in U.S. Currency, 728 F.2d 192, 195 (3d Cir. 1984);

and it appearing that "[l]ess substantial grounds may be adequate for setting aside a default than would be required for opening a judgment," Feliciano v. Reliant Tooling Co., 691 F.2d 653, 656 (3d Cir. 1982);

¹ Defendant failed to attach a proposed order to its motion, as required by Local Civil Rule 7.1(e).

and it appearing that Plaintiffs have not opposed Defendant's Motion nor otherwise argued they will be prejudiced by an order setting aside default;

and it appearing that Defendant has filed a proposed answer proffering a defense to the claims alleged in the Complaint; see Affidavit of David Dubinsky ("Dubinsky Aff.") Ex. B (the "Proposed Answer"), ECF No. 10.4;

and it appearing that Defendant's owner avers that he has taken steps to amicably resolve this matter with Plaintiffs, Dubinksy Aff. ¶¶ 3-7, and the record does not demonstrate any "actions taken willfully or in bad faith" that could support a finding of culpable conduct, see Gross v. Stereo Component Sys., Inc., 700 F.2d 120, 123-24 (3d Cir. 1983);

IT IS on this 29th day of December, 2020;

ORDERED that Defendant's Motion to Vacate Entry of Default, ECF No. 10, is **GRANTED**; and it is further

ORDERED that Defendant shall file the Proposed Answer within 20 days of the date of this Order; and it is further

ORDERED that Plaintiffs' Motion for Default Judgment, ECF No. 8 is **DENIED as moot**.

/s Madeline Cox Arleo

MADELINE COX ARLEO
UNITED STATES DISTRICT JUDGE